

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: OFFICE OF CONSUMER ADVOCATE, Complainant, vs. UKI COMMUNICATIONS, INC., Respondent.	DOCKET NOS. FCU-02-27 FCU-03-23 FCU-03-41
---	---

**ORDER GRANTING MOTION TO COMPEL, DENYING MOTION TO CANCEL
BALANCE OF PROCEDURAL SCHEDULE, AND DEFERRING JUDGMENT ON
MOTION FOR DEFAULT**

(Issued May 25, 2004)

On May 18, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a motion to compel, stating that UKI Communications, Inc. (UKI) had not responded to discovery requests from the Consumer Advocate. The Consumer Advocate further stated it had made a good faith but unsuccessful attempt to resolve the discovery issues without intervention of the Board in Docket No. FCU-02-27, and further attempts would be futile. Responses to the discovery requests were due from UKI on February 9 and May 5, 2004. UKI has not responded to the motion to compel. The motion should be granted.

Also on May 18, 2004, the Consumer Advocate filed a motion to cancel the balance of the procedural schedule and enter judgment of default on the basis that UKI had been given an additional opportunity to appear and defend and has again failed to comply, this time by failing to file a written appearance by May 10, 2004, as required by the procedural order issued on April 26, 2004. The Consumer Advocate argues that it is senseless and wasteful to continue to consume state resources by prosecuting and adjudicating these cases in the demonstrated absence of a willingness to appear and defend on the part of the respondent.

Iowa Code § 17A.12(3) provides that if a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and make a decision in the absence of the party. It would be premature to cancel the balance of the procedural schedule and enter a default judgment at this date.

IT IS THEREFORE ORDERED:

1. The Consumer Advocate's motion to compel discovery filed on May 18, 2004, is granted. UKI is ordered to respond to the Consumer Advocate's discovery requests as stated in the motion.
2. The Consumer Advocate's motion to cancel the balance of the procedural schedule filed on May 18, 2004, is denied.
3. Judgment is deferred on the Consumer Advocate's motion for default filed on May 18, 2004.

4. A copy of this order will be delivered to the Consumer Advocate and sent by ordinary U.S. mail to UKI. In addition, a copy of this order will be sent via electronic mail to juancamilo@ukicomcommunications.com and to monica@ukicomcommunications.com.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

Dated at Des Moines, Iowa, this 25th day of May, 2004.